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October 4, 2001

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: CC Docket No. 01-194: Application by SBC for Authorization  
to Provide In-Region InterLATA Services in Arkansas and Missouri

Dear Ms. Salas:

Enclosed are the reply comments of WorldCom, Inc. regarding the above-captioned section 271 application of SBC for the states of Arkansas and Missouri. Please call me with any questions.

Sincerely,



Lori Wright

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Application by SBC Communications, Inc. )  
for Authorization to Provide In-Region, )  
InterLATA Services in Arkansas and Missouri )  
\_\_\_\_\_ )

CC Docket No. 01-194

**REPLY COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY SBC  
COMMUNICATIONS INC. FOR AUTHORIZATION TO PROVIDE  
IN-REGION, INTERLATA SERVICES IN ARKANSAS AND MISSOURI**

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October 4, 2001

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## **INTRODUCTION AND EXECUTIVE SUMMARY**

The Commission should deny SBC's application for section 271 authority in Arkansas and Missouri based on the serious concerns raised by parties to this proceeding about SBC's compliance with the checklist requirements and its veracity in attesting to such compliance. SBC's application remains deficient in several critical ways. First, SBC has not proven that its UNE rates in Arkansas and Missouri comport with the Commission's TELRIC principles. SBC continues to rely on its arbitrary and unsupported rate cuts in Missouri for loops and switching rates as evidence that these rates are cost-based, and SBC simply has not taken the proper steps of proving TELRIC-based rates. This has rendered the Department of Justice unable to conclude that SBC's UNE rates in Missouri comply with TELRIC principles.

Second, competitors continue to experience difficulties submitting automated maintenance and repair tickets. Working and efficient maintenance and repair systems are critical to competitive carriers that are attempting to be responsive to new customers who report problems with their telephone service. The Department of Justice states that "given the questions that remain unanswered in the current record, the Department cannot conclude that this problem has been adequately resolved." DOJ Evaluation at 12. WorldCom agrees that questions remain unanswered and believes that, based on SBC's poor track-record for truth and veracity in section 271 applications, SBC should be required to submit its OSS to an independent third-party tester. At a minimum, the Commission should require that SBC's maintenance and repair systems, which were the subject of recent misrepresentations by SBC, should be tested by an independent third-party.

Third, SBC's attempt to constrain competitors' ability to offer DSL resale services severely impacts the existence of competition in the DSL market. As several parties explain, SBC has attempted to structure its DSL operations in such a way as to avoid the resale obligations of the Telecommunications Act. In doing so, SBC is not only denying competitors the ability to resell its advanced services in violation of its checklist obligations, it is violating the spirit of both the Telecommunications Act and Commission orders. And in early September, SBC's advanced services tariff became effective, which limits competitors' ability to provide a competitive DSL product anywhere in SBC's entire 13-state region. In particular, while SBC acknowledges in its application that it provides DSL transport to business customers at retail, its tariff does not include an avoided cost discount consistent with section 251(c)(4) of the Telecommunications Act. The absence of a resale discount violates checklist item 14 of section 271.

Finally, WorldCom agrees with comments explaining that SBC has failed to meet the "Track A" requirement of section 271(c)(1)(A) in Arkansas. Despite SBC's assertions that several carriers offer facilities-based service to residential customers, "no actual commercial alternative" for local telephone service currently exists in Arkansas. SBC's claim that WorldCom offers residential service in Arkansas is plainly false, as WorldCom has stated on several occasions. SBC asserts under oath that WorldCom has five residential facilities-based customers, but those five lines have long been disconnected, may never have been residential lines, and probably were never anything more than lines used as part of a master test that took place several years ago. Not only does this remove one of the supposed competitors from SBC's very short list of facilities-

based companies providing residential service in Arkansas, it again calls into question SBC's accuracy and veracity in its section 271 applications.

In short, the application must be denied for both Arkansas and Missouri.

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<b>FCC Orders</b>	
<u>DAL Provisioning Order</u>	<u>Provision of Directory Listing Information Under the Telecommunications Act of 1934, as amended, CC Docket No. 99-273, First Report and Order, FCC 99-273 (rel. Jan. 23, 2001).</u>
<u>Louisiana II Order</u>	<u>In re Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-region, InterLATA Services in Louisiana, Memorandum Opinion and Order, CC Docket No. 98-121, 13 F.C.C.R. 20599 (1998).</u>
<u>Oklahoma I Order</u>	<u>In re Application by SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, as Amended, to Provide In-region, InterLATA Services in Oklahoma, CC Docket No. 97-121, Memorandum Opinion and Order, 12 F.C.C.R. 8685 (1997).</u>
<u>Pennsylvania Order</u>	<u>In re Application of Verizon Pennsylvania, Inc. Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-region, InterLATA Services in Pennsylvania, CC Docket No. 01-138, Memorandum Opinion and Order, FCC 01-269 (rel. Sept. 19, 2001)</u>
<b>State Commission Orders</b>	
<u>A2A Order</u>	<u>In re Application of the Southwestern Bell Telephone Co. for Authorization to Provide In-Region InterLATA Services Pursuant to Section 271 of the Telecommunications Act of 1996 and for Approval of the Arkansas Interconnection Agreement, Docket Nos. 98-048-U &amp; 00-211-U, Order No. 17 Approving the Amended A2A (Ark. Pub. Serv. Comm'n June 18, 2001) (SBC App. C Arkansas, Tab 89).</u>
<u>M2A Order</u>	<u>In re Application of Southwestern Bell Telephone Co. to Provide Notice of Intent to file Application for Authorization to Provide In-region InterLATA Services Originating in Missouri Pursuant to Section 271 of the Telecommunications Act of 1996, Case No. TO-99-227, Order regarding Recommendation on 271 Application Pursuant to the Telecommunications Act of 1996 and Approving the Missouri Interconnection Agreement (M2A) (Mo. Pub. Serv. Comm'n March 15, 2001) (SBC App. C Missouri, Tab 98).</u>
<b>Declarations and Affidavits</b>	
Smith Aff.	Affidavit of Smith on Behalf of Southwestern Bell (SBC App. A Arkansas, Tab 21).
Hughes Aff.	Affidavit of Hughes on Behalf of Southwestern Bell (SBC App. A Missouri, Tab 11).

Attachments	
Tab A	SBC-ASI Tariff F.C.C. No. 1 (selected pages)
Tab B	Letter from Robert Lopardo, Director of Federal Advocacy, WorldCom, to Dorothy Attwood, Chief, Common Carrier Bureau, FCC (dated Sept. 19, 2001)



Before the  
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**REPLY COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY SBC  
COMMUNICATIONS, INC. FOR AUTHORIZATION TO PROVIDE  
IN-REGION, INTERLATA SERVICES IN ARKANSAS AND MISSOURI**

The Commission should deny SBC's Arkansas/Missouri section 271 application,  
based on ongoing concerns about pricing, OSS, DSL and Track A.

**I. SBC HAS NOT MET ITS BURDEN OF PROVING THAT  
CHECKLIST PRICING REQUIREMENTS ARE MET.**

UNE Rates. SBC still has not put forth evidence showing that it provides unbundled network elements at just, reasonable, and non-discriminatory prices that are based on the costs of those elements. This has left DOJ unable to support SBC's UNE rates in Missouri. DOJ Evaluation at 8. WorldCom, DOJ, and other parties pointed out significant problems with SBC's UNE rates in comments filed in SBC's first section 271 application for Missouri. Rather than addressing these concerns in a principled way, SBC instead arbitrarily cut its loop and switching rates, asserting it was "a compromise to allay the concerns of some CLECs and others that the Missouri rates are too high," and then refiled its Missouri application. Hughes Aff. ¶ 56. WorldCom and other parties stated in their comments on SBC's current application, and DOJ reinforced in its

evaluation, that these selective rate reductions do not demonstrate that SBC's UNE rates in Missouri are cost-based. *See, e.g.,* WorldCom Comments at 18; AT&T Comments at 9; DOJ Evaluation at 8. Nor has SBC provided evidence for Arkansas showing that rates there reflect its forward-looking costs and are based on an appropriate application of TELRIC. Because of these critical, yet still-unaddressed, pricing issues in Missouri and Arkansas, the Commission should deny SBC's application.

Specifically, the rates for switching in Missouri exceed TELRIC-based rates and are too high when compared to other, similarly rural states. *See* discussion in WorldCom Comments at 20. Missouri's loop rates also continue to be insufficient, even with the arbitrary 10 percent rate reduction by SBC. WorldCom Comments at 24. SBC's loop rates in Missouri are higher on a statewide basis than every state in the SWBT region for which section 271 authorization has been granted. *See* WorldCom Comments at 24-25.

Directory Assistance. Additionally, SBC's rates for directory assistance listings in Missouri and Arkansas are unjust, unreasonable, and discriminatory, in violation of sections 201(b), 202(a), 251(c)(3), and 271(c)(2)(B)(vii)(II). Section 271(c)(2)(B)(vii)(II) requires BOCs to provide non-discriminatory access to directory assistance services.<sup>1</sup> SBC has set rates for directory assistance listings and updates in Arkansas and Missouri at \$0.0585 per listing. *See* A2A Order and M2A Order, Section 8, Att. 18. Although the Commission has declined to adopt a specific pricing structure for directory assistance listings, it has encouraged states to set their own rates consistent with the non-

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<sup>1</sup> Section 251(b)(3) imposes on LECs the duty to permit all CLECs to have non-discriminatory access to directory assistance, directory listing, and operator services. The Commission concluded in the Louisiana II Order that a BOC must be in compliance with the regulations implementing section 251(b)(3) to satisfy the requirements of section 271(c)(2)(B)(vii)(II). Louisiana II Order ¶ 240. The Commission has further stated that directory assistance listings must be provided in accordance with sections 201(b) and 202(a), which require that rates and conditions be just, reasonable, and not unreasonably discriminatory. *See, e.g.,* Pennsylvania Order at Appendix C, ¶ 58.

discrimination and reasonableness requirements in sections 251(b)(3) and 201(b).<sup>2</sup> The Commission has noted favorably a New York Commission decision, for example, approving cost-based rates of less than \$0.01 for directory assistance listings. DAL Provisioning Order ¶38; See New York Verizon Tariff No. 916, issued pursuant to the NY PSC Order No. 98-C-1375 (Feb. 8, 2000). Just a few weeks ago, the California PUC rejected SBC's rates of \$0.04 and \$0.06 for directory assistance listings and updates based on "every indication" that the FCC has found market-based rates to be unacceptable.<sup>3</sup> In Texas, SBC performed a cost study that indicated that the cost for directory assistance listings was \$0.001, and the Texas PUC required SBC to provision directory assistance listings at those rates.<sup>4</sup> SBC's rates for directory assistance listings in Missouri and Arkansas, at \$0.0585, are several times higher than rates elsewhere, and a shocking 58.5 times the cost SBC itself reported in Texas. This is clearly unjust and unreasonable. In addition, SBC's rates for directory assistance in Arkansas and Missouri are unreasonably discriminatory, because SBC charges competitors much higher rates than the \$0.001 economic cost that it incurs itself. SBC fails to meet checklist item 7 of section 271 and must fix this rate prior to receiving section 271 authorization.

## **II. SBC'S OSS IS NOT BACKED BY SUFFICIENT COMMERCIAL EXPERIENCE OR A THIRD PARTY TEST**

Since there is still minimal commercial experience and no independent third-party OSS test in either Arkansas or Missouri, SBC continues to simply rely on its self-certified

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<sup>2</sup> DAL Provisioning Order ¶ 38.

<sup>3</sup> Application by Pacific Bell Telephone Company for Arbitration of an Interconnection Agreement with MCI Metro Access Transmission Services, Decision 01-09-054, (Sept. 20, 2001), *citing* DAL Provisioning Order ¶¶ 34-35.

<sup>4</sup> See, *Application of Southwestern Bell Telephone Company to Introduce a New Optional Service, Nationwide Listing Service, Pursuant to Subst. R. 23.25*, Docket No. 19461, Order at 15 (April 8, 1999); *Petition of MCI Telecommunications Corporation for Arbitration of Directory Assistance Listings Issues*

claims (some of which are supported by its long-time auditor Ernst & Young) that its systems in Arkansas and Missouri are the same as in Texas and would work properly under competitive conditions. However, there is no basis to trust SBC's assertions, which have proven false before. In particular, SBC was caught making misrepresentations about LMOS, its maintenance and repair systems.<sup>5</sup> DOJ in its evaluation states that it is not satisfied that this problem has been fixed, noting that the adequacy of SBC's maintenance and repair functionality dates back to SBC's Texas section 271 application. DOJ Evaluation at 12. Several competitive carriers continue to experience difficulty in submitting trouble tickets electronically, *see, e.g.*, AT&T Comments at 78, and SBC itself admits in its application that the problem has not been entirely fixed. DOJ Evaluation at 10. Indeed, DOJ finds that "the most recent evidence in the record suggests that on a regional basis, new LMOS errors have continued to arise at an increasing rate." DOJ Evaluation at 10.

In addition to requiring SBC to fix the LMOS problem before gaining section 271 authority for Missouri and Arkansas, the Commission should mandate that SBC have a third-party auditor test its OSS, and, in particular, its LMOS systems. At a minimum, the totality of the circumstances surrounding the sufficiency of SBC's maintenance and repair functions – that is, SBC's prior misrepresentations and the pending investigation at the Commission, lack of an independent third-party OSS test, the maintenance and repair problems that competitors continue to experience, and DOJ's serious reservations about

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*under Federal Telecommunications Act of 1996*, Docket No. 19075, *Arbitration Award at 13* (Aug. 13, 1999).

<sup>5</sup> As WorldCom fully discusses in its opening comments, the specific maintenance and repair problem at issue involves LMOS, SBC's legacy system that manages trouble tickets. Specifically, SBC fails to update the records of new CLEC customers to show that the customer in fact belongs to the CLEC, not SBC. When this happens, a CLEC's customer service representative attempting to submit an electronic trouble ticket will receive an error message and must then submit the trouble ticket manually.

whether SBC's maintenance and repair functions impede CLECs' ability to compete -- render SBC's application unworthy of approval at this time.

Despite SBC's indications otherwise, relying on manual processes for maintenance and repair tickets is *not* faster or better than access to automated maintenance and repair functions unless something is wrong with the automated system. Manual processes are slower and leave room for more errors than with an automated system. SBC should not be permitted to elude the requirement that it provide non-discriminatory access to its automated maintenance and repair functions by touting the virtues of manual processes. That debate is over. WorldCom has stated throughout section 271 proceedings that competitors are entitled to access to the far-superior automated systems of which BOCs' retail arms avail themselves.<sup>6</sup>

### **III. SBC HAS NOT DEMONSTRATED THAT ITS ADVANCED SERVICES OFFERINGS ARE AVAILABLE FOR RESALE**

SBC claims that because it is not offering DSL service to end users, it is under no obligation to offer these services for resale, even despite its public pronouncements that SBC has approximately one million customers. *See* WorldCom Comments at 1-12; *see also* AT&T Comments at 60; El Paso Networks & Pacwest Telecom Comments at 26-29; Ascent Comments at 2. Remarkably, SBC is not offering carriers the appropriate avoided cost resale discount, even for the retail services that SBC concedes that it sells to end users.

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<sup>6</sup> In addition to the delays in being able to fix problems on new customers' lines, the LMOS issue is also problematic because it results in inaccurate reporting of trouble tickets. As DOJ notes, failing to update such records correctly "could affect the accuracy of SBC's reported maintenance and repair metrics." DOJ Evaluation at 9. When a CLEC submits a trouble ticket for a customer whose order has not yet posted in SBC's systems to show that the customer belongs to the CLEC and not SBC, the trouble ticket will not be captured as a CLEC trouble ticket. This distorts SBC's performance reports.

Subsequent to WorldCom's initial comments, SBC-Advanced Solutions, Inc. (ASI) filed an Advanced Services tariff that became effective on September 10, 2001.<sup>7</sup> The tariff, which purports to contain the terms and conditions by which carriers and ISPs may obtain DSL services from SBC-ASI,<sup>8</sup> limits WorldCom's ability to provide its customers with a competitive DSL product. WorldCom has requested an investigation of the tariff, which governs access to SBC's DSL services throughout its entire 13-state region, because, among other things, the tariff does not include wholesale rates in compliance with the resale provisions of the Act.<sup>9</sup> The Commission must require that SBC sell its DSL service to carriers at a wholesale discount in Missouri and Arkansas as provided by section 251(c)(4) of the Telecommunications Act. Until then, SBC is not in compliance with checklist item 14 (resale) of section 271.

SBC acknowledges in its Brief that it provides retail DSL transport to business customers. SBC Brief at 53. SBC explains that it provides such services through Customer Service Contracts to any "similarly situated" customer that meets the terms and conditions of that particular arrangement. *Id.* In support, SBC includes an interconnection agreement between Logix Communications Company and SBC Advanced Solutions, Inc., which states that the "Agreement is intended to satisfy SBC's obligations under section 251(c) of the Act as interpreted by the D.C. Circuit Court of

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<sup>7</sup> See SBC-Advanced Solutions, Inc., Tariff FCC No. 1 (relevant sections attached hereto as Attachment A).

<sup>8</sup> The tariff expressly states that only non-affiliated customer contracts and agreements executed before September 10, 2001 are grandfathered. SBC-ASI Tariff F.C.C. No. 1, section 2.11.1. WorldCom does not have an existing agreement in place with SBC-ASI to obtain DSL services; therefore, it appears that our only option is to order DSL service out of the tariff. Moreover, WorldCom was in the middle of negotiating an agreement with SBC-ASI when SBC-ASI filed its tariff without notice to WorldCom.

<sup>9</sup> See letter from Robert Lopardo, Director of Federal Advocacy, WorldCom, to Dorothy Attwood, Chief, Common Carrier Bureau, dated September 19, 2001 (attached hereto as Attachment B). As explained in this letter, WorldCom has requested an investigation of the non-pricing provisions in the SBC-ASI tariff, as well.

Appeals in *Association of Communications Enterprises v. FCC*,” 235 F.3d 662 (D.C. Cir. 2001).

The Logix Agreement provides for an interim avoided cost resale discount of 19.2% in Missouri, which is subject to true up when the Missouri PSC adopts a permanent avoided cost discount rate.<sup>10</sup> While the Logix Agreement provides for an interim avoided cost resale discount, SBC’s tariff does not include any resale discounts. In fact, the tariff does not mention that resale is even available to carriers. In addition, as explained above, the tariff states that only agreements executed before September 10, 2001 remain in effect. Thus, if WorldCom wanted to purchase DSL transport from SBC-ASI to provide DSL access to a business in Missouri, it apparently would not receive the 19.2% avoided cost resale discount, even though SBC-ASI sells the same service directly to businesses. The absence of a resale discount in the tariff, which purports to govern SBC-ASI’s entire DSL offering, violates section 251(c)(4). SBC therefore does not meet checklist item 14 of section 271.

The contract language in the Logix Agreement also raises issues regarding SBC-ASI’s compliance with the resale provisions of the Act and the *ASCENT* decision.

The Agreement states:

SBC-ASI will make available to CLEC for resale at the wholesale discount rate shown herein new Customer Service Contracts (“CSC”) that SBC-ASI sells to retail customers. CLEC may resell new CSCs only to customers similarly situated to SBC-ASI’s retail CSC customer.<sup>11</sup>

Services are subject to resale under this Agreement only where such Services have been deployed by SBC-ASI and only where there is existing capacity on SBC-ASI’s deployed facilities to provide the Services.<sup>12</sup>

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<sup>10</sup> ASI-Logix Agreement –MO § 11F(3).

<sup>11</sup> ASI-Logix Agreement – MO § 11G.

As AT&T pointed out in its comments, SBC's highly restricted offer of wholesale DSL fails to comply with the requirements of Section 251(c) of the Act. AT&T Comments at 67-68. The Logix Agreement states that SBC-ASI will only offer DSL transport at resale to "similarly situated" customers, yet neither the Agreement nor SBC's 271 application include a definition of "similarly situated." Moreover, the Agreement also seeks to restrict the purchase of DSL transport "only where there is existing capacity on SBC-ASI's deployed facilities to provide the service."<sup>13</sup> These terms, among others, are unreasonable restrictions on resale of telecommunications services and should result in denial of SBC's section 271 application for Missouri and Arkansas.

In addition to the absence of a resale avoided cost discount in the tariff, WorldCom objects to other provisions of SBC-ASI Advanced Services Tariff. The tariff allows SBC-ASI—the telecommunications provider—to place other applications on the same DSL line carrying the ISP's or carrier's wholesale DSL transport service.<sup>14</sup> Those applications, states SBC-ASI, may limit the bandwidth available for the service that the ISP or carrier is seeking to provide to the customer.<sup>15</sup>

SBC-ASI's reservation of the right to put other advanced services directly over the DSL line carrying the ISP's or carrier's service constitutes an unreasonable practice and results in an excessive charge for a diminished service. The practice is unreasonable because it allows SBC-ASI to interfere with the customer relationship and directly affects the quality of the ISP's or carrier's offering. Moreover, the charges for the DSL service

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<sup>12</sup> ASI-Logix Agreement – MO § 11H.

<sup>13</sup> Id.

<sup>14</sup> Sections 6.2.1 and 6.2.4 of SBC-ASI tariff.

<sup>15</sup> Section 6.2.1 of SBC-ASI tariff.



are unreasonably high because the price does not account for the degradation in the service that can result from SBC-ASI placing other applications on the line.

Under the tariff, WorldCom would pay a non-recurring charge to have DSL added to the end user's line. And WorldCom has responsibility for providing all customer premise equipment.<sup>16</sup> Despite the fact that WorldCom pays for all charges to connect the DSL service and has to provide the customer equipment, SBC-ASI reserves the right to put other applications over the DSL service without any refunds or credits to WorldCom to cover the cost of establishing the service.

Another customer-impacting issue associated with the tariff relates to the quality of the service offered and provided by SBC. Although SBC-ASI's network is capable of supporting a range of quality of service levels,<sup>17</sup> SBC-ASI is only offering a "best efforts" type of DSL service, which is the lowest quality of service.<sup>18</sup> If SBC-ASI is capable of providing a level of service that would support the applications that WorldCom's customers demand, WorldCom should not be forced to accept the lowest grade of service.

Finally, the service is restricted to line sharing arrangements with SBC's voice service.<sup>19</sup> Thus, if an end-user elects to have a voice provider other than SBC, the end user would not be able to obtain DSL service from an ISP or carrier purchasing the service from SBC-ASI. SBC-ASI's attempt to tie its DSL offering to its voice service severely hinders the ability of carriers and ISPs to compete.

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<sup>16</sup> Section 6.3.1 of SBC-ASI tariff.

<sup>17</sup> See Section 4.2.5 of SBC-ASI tariff listing the different quality of service levels ranging from Constant Bit Rate (highest) to Unspecified Bit Rate (lowest).

<sup>18</sup> See Section 6.2.5 of SBC-ASI tariff ("Company only provides UBR service.")

<sup>19</sup> Section 6.2.2 of SBC-ASI tariff.

If the terms and conditions of SBC-ASI's tariff remain in place, there will be virtually no competition in both the DSL and Internet access market. SBC and its ISP affiliate, SBIS, will continue to dominate the region, and in doing so, will deprive consumers of competitive high-speed access. For these reasons, the Commission must thoroughly investigate SBC-ASI's tariff and must deny this section 271 application for failure to comply with section 251(c)(4) of the Telecommunications Act and checklist item 14 (resale) of section 271.

#### **IV. SBC FAILS TO MEET TRACK A IN ARKANSAS**

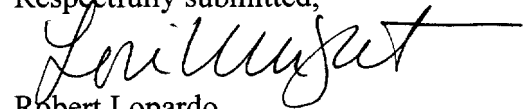
SBC has trouble getting even the simple facts straight. WorldCom has repeatedly explained to SBC that it does not offer facilities-based service to residential customers in Arkansas. But SBC claims in the confidential version of J.G. Smith's affidavit that WorldCom provides service over its own facilities to five residential customers. Smith Aff., Att. E at 1. This simply is not true. None of those five lines is in service. Nor is it clear that they were residential lines or anything more than lines used as part of a test that WorldCom conducted several years ago. Not only does this demonstrate that SBC exaggerates the level of facilities-based competition for residential customers in Arkansas, it again calls into question the truthfulness of SBC's declarations in section 271 applications. Other carriers that SBC claims as competitors also are not in the market of providing facilities-based service to residential customers. For example, Navigator Telecommunications stopped offering facilities-based residential service in Arkansas due to daily, "seemingly unending series of obstacles in dealing with SWBT." Navigator Comments at 2.

Thus, as commenters explained, SBC fails to meet the Track A requirements of section 271(c)(1)(A), which require that the applicant have interconnection agreements with one or more “competing providers” of telecommunication service to both residential and business customers. In Arkansas, there is at most a *de minimis* level of facilities-based residential service, which is certainly not of a sufficient magnitude to constitute an “actual commercial alternative to the BOC.” Oklahoma I Order ¶ 14. SBC’s attempts to identify CLECs offering facilities-based residential service, as pointed out by the Arkansas PSC, “do not support a finding that there is competition for new residential customers.” Arkansas PSC Comments at 6. The Commission should deny SBC’s application for section 271 authority in Arkansas.

#### **CONCLUSION**

SBC’s Arkansas and Missouri application should be denied.

Respectfully submitted,



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October 4, 2001

### **CERTIFICATE OF SERVICE**

I, Vivian Lee, do hereby certify that copies of the foregoing Reply Comments were sent via first class mail, postage paid, to the following on this 4<sup>th</sup> day of October, 2001.

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HAND DELIVERED\*

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Vivian Lee

**TAB A**

ADVANCED SERVICES TARIFF

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SBC ADVANCED SOLUTIONS, INC.

Advanced Services are provided by means of wire, terrestrial microwave radio, optical fibers satellite circuits, or a combination thereof.

This entire tariff is initially issued under authority of Special Permission No. 01-095 of the F.C.C.

(Issued under Transmittal No. 1)

Issued: September 07, 2001

Effective: September 10, 2001

By:

John S. Habeeb – Director Regulatory  
SBC Advanced Solutions, Inc.  
300 Convent, 19<sup>th</sup> Floor  
San Antonio, Texas 78205

ADVANCED SERVICES TARIFF

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**SECTION 2 - REGULATIONS (Continued)**

**2.11 Grandfathered Customer Contracts**

- 2.11.1** Non-affiliated Customer contracts or service agreements executed with Company prior to the effective date of this tariff ("existing contracts") are grandfathered as of the effective date of this tariff and all rates, terms and conditions contained therein remain in effect.
- 2.11.2** Customers with existing contracts containing only month to month rates, terms and conditions are on constructive notice that their service(s) will be converted to applicable month to month tariffed rates, terms and conditions ninety (90) calendar days after the effective date of this tariff.
- 2.11.3** Upon the effective date of this tariff, all contracts between Company and its affiliated Customers (including Southwestern Bell Internet Services, Inc., Pacific Bell Internet Services, Ameritech Interactive Media Services, Inc. and SNET Diversified Group, Inc.) are converted to the tariffed rates, terms and conditions contained herein, including volume and term liabilities.

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ADVANCED SERVICES TARIFF

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**SECTION 4 – ASYNCHRONOUS TRANSFER MODE (Continued)****4.2 Service Provisioning (Continued)****4.2.5 Permanent Virtual Circuits (PVCs)**

Permanent Virtual Circuits (PVCs) are logical connections between two (2) ATM ports that allow data to be sent from one Customer location to another.

Company provides varying Quality of Service levels for each PVC. The Customer must choose the traffic prioritization parameters available for each PVC. Traffic prioritization parameters refer to priorities given to cell transmissions and sensitivity of cells to delay variation and loss within the network.

Company ATM switches are responsible for guaranteeing the Quality of Service, based on the traffic priority parameter selected. The traffic prioritization parameter categories are listed below. Not all parameters are available in all regions.

**4.2.5.A Constant Bit Rate (CBR)**

CBR supports the transmission of a continuous flow of user information required to support applications where variable delays in transmission could negatively impact the streaming information content. CBR is the highest priority traffic on the network. Examples of applications requiring CBR are voice and some types of video and data streaming.

**4.2.5.B Variable Bit Rate - real time (VBR-rt)**

VBR-rt supports traffic transmission levels for applications where a PVC requires low cell deviation. Such applications could include variable bit rate video compression and packet voice and video, which are somewhat tolerant of delay.

**4.2.5.C Variable Bit Rate - non real time (VBR-nrt)**

VBR-nrt supports traffic transmission levels for applications where a PVC can tolerate larger cell delay variation than VBR-rt. Such applications could include data file transfers.

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## ADVANCED SERVICES TARIFF

**SECTION 4 – ASYNCHRONOUS TRANSFER MODE (Continued)****4.2 Service Provisioning (Continued)****4.2.5 Permanent Virtual Circuits (PVCs) (Continued)****4.2.5.D Unspecified Bit Rate (UBR)**

UBR supports the transmission of a continuous bit stream of traffic using a "best effort" class of Service for critical, delay-tolerant applications such as data file transfers.

Additional UBR PVC connections may be established for customers wishing to exceed the UNI, GI or B-ICI bandwidth. This condition is known as over subscription and is used only with UBR PVCs. When over subscription occurs, there can be no guarantee that any of the bandwidth defined for any of the connections will be available.

PVC	West-CA	West-NV	Central	North	Northeast
CBR	X	X	X	X	X
VBR-rt				X	
VBR-nrt	X	X	X	X	X
UBR	X	X	X	X*	X

\*UBR only available on ATM when purchased in conjunction with Wholesale DSL Transport Service.

**4.2.6 Circuit Emulation Service (CES)**

ATM Circuit Emulation Service (CES) provides the capability of directly connecting standard Time Division Multiplexing (TDM) interfaces to carry constant bit rate (CBR) or "circuit" traffic over ATM networks.

Optional Feature	West-CA	West-NV	Central	North	Northeast
DS1/PRI	X		X		

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ADVANCED SERVICES TARIFF

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**SECTION 6 – WHOLESALE DIGITAL SUBSCRIBER LINE (DSL) TRANSPORT****6.1 Service Description**

- 6.1.1** Wholesale Digital Subscriber Line (DSL) Transport Service is a virtual session between Company's ATM network and Customer's designated End User premises utilizing asymmetrical DSL technology over a DSL Line. A DSL Line is the physical facility between the Company's DSLAM (or remote terminal where a remote terminal has been installed by Company's vendors or affiliates) and the Network Interface Device (NID) located at the End User premises. Company retains ownership of the overall DSL Line. Company may place special equipment within its DSL Transport and ATM network, to allow for the provisioning and management of multiple applications on each DSL Line. Wholesale DSL Transport Service is intended primarily for Internet Service Providers (ISPs), but may be purchased by any information Service provider or carrier to connect to their End User for the purposes of providing a retail Service.
- 6.1.2** Company offers DSL Transport Service in several downstream/upstream operating speed combinations across its operating territory, by Affiliate Region. The DSL Line provisioned by ASI between Company's DSLAM (or remote terminal where a remote terminal has been installed by Company's vendors or affiliates) to an End User's NID will support downstream speeds ranging from 384 Kbps to 6.0 Mbps and upstream speeds ranging from up to 128 Kbps to 384 Kbps. In certain Affiliate Regions, only two (2) operating speeds are available (Phase I). In other regions, five (5) operating speeds are available (Phase II). Phase I and Phase II operating speeds are described below.
- 6.1.3** "Downstream" speeds represent connection speeds measured in kilobits per second (Kbps) or megabits per second (Mbps), from Company's DSLAM (or remote terminal where a remote terminal has been installed by Company's vendors or affiliates) to the NID located at Customer's designated End User premises. Customer's End User modem must synchronize at 384 Kbps downstream to attain the minimum speed of 384 Kbps.
- 6.1.4** "Upstream" speeds represent connection speeds from the NID located at the customer's designated End User premises to Company's DSLAM (or remote terminal where a remote terminal has been installed by Company's vendors or affiliates).

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**TAB B**

September 19, 2001

Dorothy Attwood  
Chief, Common Carrier Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: SBC-ASI Advanced Services Tariff Filing (FCC Tariff No. 1)

Dear Ms. Attwood:

WorldCom is writing to request an investigation of SBC-ASI's Advanced Services Tariff, effective September 10, 2001. The rates, terms and conditions contained in SBC's Advanced Services tariff, which govern access to SBC's DSL services throughout its entire 13-state region, directly impact WorldCom's ability to serve our customers. WorldCom urges the Commission to issue an order commencing an investigation into SBC's Advanced Services Tariff.

WorldCom has been negotiating a General Services Agreement with SBC for access to its DSL services.<sup>1</sup> Without notice to WorldCom, SBC filed its tariff with the Commission and presumably terminated negotiations with WorldCom. The tariff, which was approved by the Common Carrier Bureau on September 7, 2001, includes terms and conditions that impede WorldCom's ability to offer DSL services to end-users. For example, the tariff allows SBC to place other applications over the DSL line that WorldCom is accessing, and such applications, acknowledges SBC, may limit the bandwidth available for the service that WorldCom is seeking to provide to the customer.<sup>2</sup> Moreover, although SBC's network is capable of supporting a range of quality of service levels,<sup>3</sup> SBC is only offering a "best efforts" type of DSL service, which is the lowest quality of service.<sup>4</sup> In addition, the service is restricted to line sharing arrangements with SBC's voice service.

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<sup>1</sup> During negotiations, SBC provided WorldCom with contract language that included terms and conditions that are not in the tariff.

<sup>2</sup> See Sections 6.2.1 and 6.2.4 of SBC-ASI tariff.

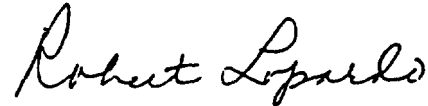
<sup>3</sup> See Section 4.2.5 of SBC-ASI tariff listing the different quality of service levels ranging from Constant Bit Rate (highest) to Unspecified Bit Rate (lowest).

<sup>4</sup> See Section 6.2.5 of SBC-ASI tariff ("Company only provides UBR Service.")

Like the terms and conditions contained in the tariff, the pricing of SBC's DSL service has not been investigated by the Commission. Although SBC acknowledges in its Missouri/Arkansas long distance application that it provides retail DSL transport to business customers,<sup>5</sup> its tariff does not include wholesale rates consistent with the resale provisions of the Act and the Commission's rules. In addition, in its MO/AR comments, WorldCom raised issues relating to the availability for resale of SBC's advanced services.<sup>6</sup>

If the Commission allows SBC to continue to impose the rates, terms and conditions contained in its Advanced Services tariff, there will be minimal competitive access to advanced services in the 13-state SBC region. For these reasons, WorldCom requests that the Commission immediately initiate a swift investigation into SBC's Advanced Services tariff.

Respectfully submitted,



Robert C. Lopardo  
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cc: Jeff Carlisle  
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Matthew Brill  
Sam Feder  
Jordan Goldstein  
Brent Olson  
Richard Lerner  
Aaron Goldschmidt  
Michelle Carey  
Scott Bergman  
Jane Jackson  
Judith Nietsche

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<sup>5</sup> SBC MO/AR Brief, CC Docket No. 01-194, dated August 20, 2001, at p. 53.

<sup>6</sup> See Comments of WorldCom on the Application by SBC Communications Inc. For Authorization to Provide In-Region InterLATA Services in Arkansas and Missouri, CC Docket No. 01-194, dated September 10, 2001, at pp. 1-12.

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